

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH  
CENTRAL DIVISION

KEVIN THOMAS BROGAN,  Petitioner,   vs.   UNITED STATES OF AMERICA,  Respondent.	MEMORANDUM DECISION AND ORDER DENYING MOTION FOR RECOMMENDATION IN FAVOR OF FURLOUGH   Civil Case No. 2:12-CV-444 TS Criminal Case No. 2:10-CR-284 TS
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This matter is before the Court on Petitioner’s Motion for Recommendation in Favor of Furlough.<sup>1</sup> The Respondent objects to Petitioner’s Motion and indicates that it has initiated the process for transferring the Petitioner from his place of incarceration to Salt Lake City for his participation in the April 29, 2013, evidentiary hearing before this Court.

18 U.S.C. § 3622 provides that the Bureau of Prisons (“BOP”) “may release a prisoner from the place of his imprisonment for a limited period if such release appears to be consistent with the purpose for which the sentence was imposed and any pertinent policy statement issued by the Sentencing Commission.” The BOP has delegated this function to the Warden of the

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<sup>1</sup>Docket No. 18.

federal prison in which the inmate is incarcerated.<sup>2</sup> “The Warden or designee may authorize a furlough, for 30 calendar days or less, for an inmate to . . . [a]ppear in court in connection with a civil action.”<sup>3</sup> However, the Warden may only authorize a furlough to “[a]ppear in or prepare for a criminal court proceeding . . . when the use of a furlough is requested or recommended by the applicable court or prosecuting attorney.”<sup>4</sup>

The Court is not persuaded that the evidentiary hearing scheduled in this matter is a “criminal court proceeding” requiring a recommendation by this Court, or the “prosecutor,” for Petitioner to receive a furlough. Thus, the determination of whether a furlough is warranted in this case is in the discretion of the BOP. If Petitioner is not satisfied with the BOP’s determination, he may appeal that determination through the Administrative Remedy Program provided by the BOP.<sup>5</sup> Based on the foregoing, the Court will deny Petitioner’s Motion. It is therefore

ORDERED that Petitioner’s Motion for Recommendation in Favor of Furlough (Docket No. 18) is DENIED.

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<sup>2</sup>See 28 C.F.R. § 570.32(a).

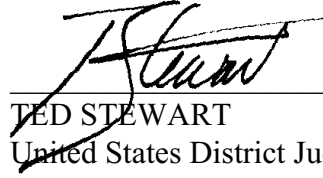
<sup>3</sup>*Id.* § 570.33.

<sup>4</sup>*Id.*

<sup>5</sup>See *id.* § 570.37(c).

DATED March 13, 2013.

BY THE COURT:



A handwritten signature in black ink, appearing to read "Stewart", is written over a horizontal line.

TED STEWART  
United States District Judge